



## DEPARTMENT OF COMMERCE

## International Trade Administration

[A-557-823]

Polyester Textured Yarn from Malaysia: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce

**SUMMARY:** The Department of Commerce (Commerce) preliminarily determines that polyester textured yarn (yarn) from Malaysia is being, or is likely to be, sold in the United States at less than fair value (LTFV). The period of investigation is October 1, 2019, through September 30, 2020. Interested parties are invited to comment on this preliminary determination.

**DATES:** Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**FOR FUTURE INFORMATION CONTACT:** Daniel Alexander, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4313.

**SUPPLEMENTARY INFORMATION:**Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce initiated this investigation on November 17, 2020.<sup>1</sup> On April 2, 2021, Commerce postponed the preliminary determination in this investigation and the revised deadline is now May 26, 2021.<sup>2</sup>

<sup>1</sup> See *Polyester Textured Yarn from Indonesia, Malaysia, Thailand, and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigations*, 85 FR 74680 (November 23, 2020) (*Initiation Notice*).

<sup>2</sup> See *Polyester Textured Yarn from Indonesia, Malaysia, Thailand, and the Socialist Republic of Vietnam: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations*, 86 FR 17362 (April 2, 2021).

For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.<sup>3</sup> A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>.

### Scope of the Investigation

The product covered by this investigation is polyester textured yarn from Malaysia. For a complete description of the scope of this investigation, *see* Appendix I.

### Scope Comments

In accordance with the preamble to Commerce's regulations,<sup>4</sup> the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (scope).<sup>5</sup> Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice*. For a summary of the product coverage comments and rebuttal responses submitted to the record for this preliminary determination and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.<sup>6</sup> As discussed in the Preliminary Scope Decision Memorandum, Commerce is preliminarily not modifying the scope language as it appeared in the *Initiation Notice*.

The Preliminary Scope Decision Memorandum establishes the deadline to submit scope

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<sup>3</sup> *See* Memorandum, "Decision Memorandum for the Preliminary Affirmative Determination in the Less-Than-Fair-Value Investigation of Polyester Textured Yarn from Malaysia," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

<sup>4</sup> *See Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

<sup>5</sup> *See Initiation Notice*, 85 FR at 74680.

<sup>6</sup> *See* Memorandum, "Antidumping duty investigations of Polyester Textured Yarn from Indonesia, Malaysia, Thailand and Vietnam: Preliminary Scope Decision Memorandum," dated concurrently with this notice (Preliminary Scope Decision Memorandum).

case briefs.<sup>7</sup> There will be no further opportunity for comments on scope-related issues.

### Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Commerce has calculated export prices in accordance with section 772(a) of the Act and normal values in accordance with section 773 of the Act. For a full description of the methodology underlying Commerce's preliminary determination, *see* the Preliminary Decision Memorandum.

### All-Others Rate

Sections 733(d)(1)(A)(ii) and 735(c)(5)(A) of the Act provide that in the preliminary determination Commerce shall determine an estimated all-others rate for all exporters and producers not individually examined. This rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding rates that are zero, *de minimis* margins or determined entirely under section 776 of the Act. In this investigation, Commerce preliminarily calculated a rate of 17.35 percent for Recron (Malaysia) Sdn. Bhd. (Recron). Because Recron's rate is not zero, *de minimis* or based entirely on section 776 of the Act, we are relying on Recron's rate as the estimated weighted-average dumping margin for all other exporters and producers not individually examined.

### Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist:

<b>Exporter or Producer</b>	<b>Estimated Weighted-Average Dumping Margin (percent)</b>
Recron (Malaysia) Sdn. Bhd.	17.35
All Others	17.35

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<sup>7</sup> Case briefs, other written comments, and rebuttal briefs submitted by in response to this preliminary LTFV determination should not include scope-related issues. *See* Preliminary Scope Decision Memorandum, and "Public Comment" section of this notice.

### Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the *Federal Register*.

Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit as follows: (1) the cash deposit rate for each of the companies listed above will be equal to the company-specific estimated weighted-average dumping margin as determined in this preliminary determination; (2) if the exporter is not a respondent identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin as established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin.

### Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

### Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination. Normally, Commerce verifies information using standard procedures, including an on-site examination of original accounting, financial, and sales documentation. However, due to current travel restrictions in response to the global COVID-19 pandemic, Commerce is unable to conduct on-site verification in this investigation. Accordingly, we intend to verify the information relied upon in making the final determination through alternative means in lieu of an on-site verification.

## Public Comment

Case briefs or other written comments regarding non-scope issues may be submitted to the Assistant Secretary for Enforcement and Compliance. A timeline for the submission of case briefs and written comments will be provided to interested parties at a later date. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than seven days after the deadline date for case briefs.<sup>8</sup> The deadlines for submitting case and rebuttal briefs on scope issues are in the Preliminary Scope Decision Memorandum.<sup>9</sup> Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. Note that Commerce has modified certain of its requirements for serving documents containing business proprietary information until further notice.<sup>10</sup>

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

## Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by

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<sup>8</sup> See 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

<sup>9</sup> See Preliminary Scope Decision Memorandum.

<sup>10</sup> See *Temporary Rule*.

exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. Section 351.210(e)(2) of Commerce's regulations requires that a request by exporters for postponement of the final determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On May 18, 2021, pursuant to 19 CFR 351.210(e), Recron requested in the event of an affirmative preliminary determination, that Commerce postpone the final determination and that provisional measures be extended to a period not to exceed six months.<sup>11</sup> On May 6, 2021, the petitioners also filed a request to postpone the final determination in the event of a negative preliminary determination.<sup>12</sup> In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii) and (e)(2), because: (1) The preliminary determination is affirmative; (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, Commerce is postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, Commerce will make its final determination no later than 135 days after the date of publication of this preliminary determination.

#### International Trade Commission Notification

In accordance with section 733(f) of the Act, Commerce will notify the International Trade Commission (ITC) of its preliminary determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

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<sup>11</sup> See Recron's Letter, "Polyester Textured Yarn from Malaysia: Request to Extend the Final Determination," dated May 18, 2021.

<sup>12</sup> See Petitioners' Letter, "Polyester Textured Yarn from Indonesia, Malaysia, Thailand, and the Socialist Republic of Vietnam – Petitioners' Request for Postponement of the Final Antidumping Determination," dated May 6, 2021.

Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act, 19 CFR 351.205(c), and 19 CFR 351.210(g).

Dated: May 26, 2021.

**Christian Marsh,**  
*Acting Assistant Secretary for Enforcement and Compliance.*

## **Appendix I**

### **Scope of the Investigation**

The merchandise covered by this investigation, polyester textured yarn, is synthetic multifilament yarn that is manufactured from polyester (polyethylene terephthalate). Polyester textured yarn is produced through a texturing process, which imparts special properties to the filaments of the yarn, including stretch, bulk, strength, moisture absorption, insulation, and the appearance of a natural fiber. This scope includes all forms of polyester textured yarn, regardless of surface texture or appearance, yarn density and thickness (as measured in denier), number of filaments, number of plies, finish (luster), cross section, color, dye method, texturing method, or packaging method (such as spindles, tubes, or beams).

The merchandise subject to this investigation is properly classified under subheadings 5402.33.3000 and 5402.33.6000 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.



## **Appendix II**

### **List of Topics Discussed in the Preliminary Decision Memorandum**

- I. Summary
- II. Background
- III. Period of Investigation
- IV. Scope of Investigation
- V. Scope Comments
- VI. Affiliation
- VII. All-Others Rate
- VIII. Discussion of Methodology
- IX. Currency Conversion
- X. Recommendation

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